

Docket No.: 066396-0059

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

JACKSON, DAVID, et al.

Serial No.: 10/628,044

Filed: July 25, 2003

For: **DIAGNOSING MALFUNCTIONING WHEEL ALIGNMENT SYSTEM**

Group Art Unit: Not known

Examiner: Not known

**RECEIVED****JUN 15 2004****OFFICE OF PETITIONS****CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail under 37 CFR 1.8(a) in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on the date indicated below.

Date:

*September 4, 2003**Jessica Brown*  
Jessica Brown

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.10(D)**

Sir:

Applicant petitions to correct the stated filing date of this application under 37 C.F.R. § 1.10(d) of July 26, 2003, so that it reflects that actual filing date of July 25, 2003.

In support of this Petition, Applicant relies upon the attached declarations of Marc E. Brown, Jessica Brown, Edna Long, Richard (Ike) Eichelberger and Diana Bayless.

Collectively, these declarations establish all of the requirements of 37 C.F.R. § 1.10(d). Specifically, the declarations establish that:

1. This application was deposited in the "Express Mail Post Office to Addressee" service of the United States Postal Service on July 25, 2003, prior to the last scheduled pickup for that day.
2. The number of the Express Mail mailing label was placed on the cover letter of the application that was enclosed with the original mailing by Express Mail.

3. The United States Postal Service was late making the pickup on that day, requiring the pickup to be shifted to a different office for handling and ultimately leading to the erroneous marking on the Express Mail receipt of the "Date in" as July 26, 2003.

4. This petition has been filed promptly after applicant became aware that the U.S. Patent Office accorded a filing date based upon an incorrect entry by the United States Postal Service.

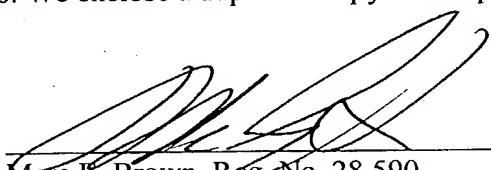
5. This showing is corroborated by evidence from the United States Postal Service. This includes statements made to two witnesses by the Station Manager of the branch office handling this matter, photographs of the labeling on the Postal Service's drop box showing the scheduled pickup time, and a copy of the Postal Service's own internal report showing that the pickup was late.

6. This showing is also corroborated by evidence that came into being after the deposit and within one business day of the deposit. This includes the delivery of this application to and the receipt by the docketing department of the law firm that is representing applicant on July 25, 2003; a printout of a contemporaneous entry that was made on July 25, 2003 in the firm's docketing system that confirmed that the application had been filed on July 25, 2003; and a copy of the dated stamp placed on July 25, 2003 by the docketing department on the copy of the return post card that it had been provided, confirming that it had calendared the filing of the application on July 25, 2003.

It is therefore requested that this petition be granted and that the filing date of July 25, 2003, be accorded this application.

Please charge the \$130 petition fee to our Deposit Account No. 501946, and reference attorney docket number 66396-059-6806. Please charge any additional fees or credit any overpayment to Deposit Account No. 501946. We enclose a duplicate copy of this petition.

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Marc E. Brown, Reg. No. 28,590  
Attorney for Applicant

**MCDERMOTT, WILL & EMERY**  
2049 Century Park East  
Los Angeles, CA 90067  
Telephone: (310) 277-4110  
Facsimile: (310) 277-4730